

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Luria Brothers)	<u>Director's Final Findings</u>
18951 Snow Road)	<u>and Orders</u>
Brook Park, Ohio 44142)	

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PREAMBLE

It is hereby agreed by and among the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Luria Brothers, pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under section 3704.03 and 3745.01 of the Ohio Revised Code ("ORC").

II. PARTIES

These Orders shall apply to and be binding upon Luria Brothers and its officers, directors, agents, servants, employees, assigns and successors in interest.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in Chapter 3704 of the ORC and the regulations promulgated thereunder.

IV. FINDINGS OF FACT

The Director of the Ohio EPA has determined the following findings of fact:

1. The Clean Air Act Amendments ("CAAA") of 1990 required that each State, which contained any nonattainment area for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (commonly denoted as "PM-10"), submit by November 15, 1991 a State Implementation Plan ("SIP") to the U.S. Environmental Protection Agency ("U.S. EPA"). The SIP must provide for the achievement and maintenance of the National Ambient Air Quality Standards ("NAAQS") for PM-10 by the applicable deadline (1994). Furthermore, Section 172(c)(9) of the CAAA requires that the SIP provide for contingency measures which would be undertaken if the specific nonattainment area fails to make reasonable further progress or fails to attain the primary NAAQS by the attainment date. Such contingency measures

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were to take effect without further action by the State or the U.S. EPA.

2. The U.S. EPA identified Cuyahoga County and portions of Jefferson County as nonattainment areas for PM-10. On November 14, 1991, the Ohio EPA submitted a PM-10 SIP to the U.S. EPA which included revisions to the Ohio Administrative Code ("OAC") Chapter 3745-17 (concerning particulate matter).

3. The revisions to OAC Chapter 3745-17 include new OAC rule 3745-17-14 which contains the PM-10 contingency measure requirements for certain facilities that impact the PM-10 nonattainment areas. Paragraph (A) of this rule requires that by April 1, 1992 the facilities submit control strategies and compliance schedules to the Ohio EPA which would reduce particulate emissions from the baseline levels identified in paragraph (A)(3) of OAC rule 3745-17-14 by 15 or 25 percent.

4. Pursuant to paragraph (B) of OAC rule 3745-17-14, the control strategies and compliance schedules submitted in accordance with paragraph (A) of OAC rule 3745-17-14 must be approved by the Director of the Ohio EPA through the issuance of Findings and Orders, as authorized by Division (R) of section 3704.03 of the ORC. Also, the Findings and Orders must be submitted to and approved by the U.S. EPA as a revision to the Ohio SIP for PM-10.

5. Pursuant to paragraph (C) of OAC rule 3745-17-14, the requirements of the Findings and Orders are to be implemented by each facility upon receipt of a formal determination and notification by the Ohio EPA or the U.S. EPA that the area is not in compliance with the NAAQS.

6. Luria Brothers, which is located at 18951 Snow Road in Brook Park in Cuyahoga County, owns and operates an automobile shredding operation consisting of material handling of bulk scrap, shredder, separators, classifiers, and conveyors. Luria Brothers facility is identified by Ohio EPA premise number 1318122776. This facility is subject to the requirements of OAC rule 3745-17-14, which specify that the total required particulate emission reductions for this facility, at the maximum operating rates, are 4.6 pounds per hour at the fifteen (15) percent ("%") reduction level and 7.7 pounds per hour at the twenty-five % reduction level.

7. On October 30, 1992, Luria Brothers submitted a control strategy and compliance schedule to the Ohio EPA pursuant to the requirements of paragraph (A) of OAC rule 3745-17-14. This control strategy and compliance schedule was determined to be inadequate by the Ohio EPA. The Luria Brothers facility has the following sources: F003 and P901 (regulated in OAC rule 3745-17-12(Q)), F001, F002 and P902. Source P901 was shut down and

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replaced by P902 in 1991. The total facility-wide emission rate from sources F001, F002, F003 and P902 is 9.55 pounds of particulate matter per hour. The particulate matter reduction levels called for by OAC rule 3745-17-14 are 4.6 pounds of particulate matter per hour for the 15% reduction level and 7.7 pounds of particulate matter per hour for the 25% reduction level. The control strategy and compliance schedule developed by the Ohio EPA for the affected air contaminant source at the facility is as follows:

a. For the fifteen (15) percent reduction level:

For source F001 (unpaved roads and parking areas), the additional control measure for the contingency plan is to apply additional wet suppression with chemicals to the unpaved roads and parking areas sufficient to meet a limitation of no visible particulate emissions except for a period of time not to exceed three minutes during any sixty-minute observation period.

Luria Brothers will employ wet suppression with chemicals to the shredded ferrous, non-ferrous metal and trash piles (source F002) sufficient to meet a limitation of no visible particulate emissions except for a period of time not to exceed one minute during any sixty-minute observation period.

<u>Milestone</u>	<u>Completion Date</u>
a) apply additional wet suppression with chemicals to source F001	Two weeks after notification to initiate plan
b) apply wet suppression with chemicals to source F002	Two weeks after notification to initiate plan

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The total particulate emission reduction for these sources through the implementation of the above-mentioned control plans is 4.73 pounds of particulate matter per hour.

b. For the twenty five (25)% reduction level

For source F001 (unpaved roads and parking areas), the additional control measure for the contingency plan is to apply additional wet suppression with chemicals to the unpaved roads and parking areas sufficient to meet a limitation of no visible particulate emissions except for a period of time not to exceed three minutes during any sixty-minute observation period.

Luria Brothers will employ wet suppression with chemicals to the shredded ferrous, non-ferrous metal and trash piles (source F002) sufficient to meet a limitation of no visible particulate emissions except for a period of time not to exceed one minute

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during any sixty-minute observation period.

Luria Brothers will maintain an emission rate for the automobile shredder (source P902) of no greater than 2.0 pounds of particulate matter per hour.

<u>Milestone</u>	<u>Completion Date</u>
a) apply additional wet suppression with chemicals to source F001	Two weeks after notification to initiate plan
b) apply wet suppression with chemicals to source F002	Two weeks after notification to initiate plan
c) maintain emission rate limitation for source P902 of 2.0 pounds of particulate matter per hour	Two weeks after notification to initiate plan

The total particulate emission reduction for these sources through the implementation of the above-mentioned control plans is 6.73 pounds of particulate matter per hour.

8. The Ohio EPA finds that the control strategy and compliance schedule identified in Finding 7 satisfies the requirements of the 15% reduction levels specified in OAC rule 3745-17-14. The Ohio EPA is approving these reductions, because it is technically infeasible and/or economically unreasonable for Luria Brothers to achieve the 25% reduction levels required by OAC rule 3745-17-14.

9. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby makes the following Orders:

1. Upon the determination by the Ohio EPA or the U.S. EPA and upon written notification from the Ohio EPA to Luria Brothers in accordance with OAC rule 3745-17-04 that contingency measures must be implemented in Cuyahoga County (or a portion of Cuyahoga County including Luria Brothers), Luria Brothers shall implement the control program specified in Finding 7.

2. If the written notification described in Order 1 specifies that the fifteen percent reduction level in OAC rule 3745-17-14 is to be achieved, Luria Brothers shall maintain the

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By: William Glenn Date 7-15-95

control strategy and compliance schedule specified in Finding 7 for such level and shall achieve and maintain compliance with a particulate emission reduction of 4.6 pounds per hour at the maximum operating rate. If the written notification described in Order 1 specifies that the twenty-five percent reduction level in OAC rule 3745-17-14 is to be achieved, Luria Brothers shall maintain the control strategy and compliance schedule specified in Finding 7 for such level and shall achieve and maintain compliance with a particulate emission reduction of 6.73 pounds per hour at the maximum operating rate.

3. Within ten (10) days following the applicable milestone deadline specified in Finding 7, Luria Brothers shall submit a written progress report to the Cleveland Division of Air Pollution Control ("Cleveland DAPC"). The person submitting these reports shall certify whether or not the applicable deadline has been met and the date it was met. If an applicable milestone has not been met, the person shall explain why the milestone has not been met.

4. If after the effective date of these Orders and prior to the notification in Order 1 Luria Brothers shuts down any sources or overcontrols any sources not specified in its contingency measures in Finding 7, the particulate emission reductions from such sources may be credited toward the required particulate emission reductions specified in Finding 6 and these Orders may be modified accordingly. Luria Brothers shall submit such proposed contingency measures to Ohio EPA and the Cleveland DAPC for approval in any request to modify these Orders.

VI. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Luria Brothers' facility.

VII. NOTICE

All documents demonstrating compliance with these Orders, and other documents required under these Orders to be submitted to the Ohio EPA, shall be addressed to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
Attn: Thomas Kalman
P. O. Box 1049
Columbus, Ohio 43216-1049

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By: Wickie Mann Date 7-15-95

and

City of Cleveland
Bureau of Air Pollution Control
Attn: Douglas Seaman
1925 St. Clair Avenue
Cleveland, Ohio 44114

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as specified in these Orders or to such persons and addresses as may hereafter be otherwise specified in writing by the Ohio EPA.

VIII. RESERVATION OF RIGHTS


Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including penalties against Luria Brothers for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Luria Brothers to perform additional activities pursuant to Chapter 3704 of the ORC or any other applicable law in the future. Nothing herein shall restrict the right of Luria Brothers to raise any administrative, legal or equitable claim or defense with respect to such further actions which the Ohio EPA may seek to require of Luria Brothers.

IX. SIGNATORIES

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such signatory to this document.

IT IS SO ORDERED:

By:


Donald R. Schregardus
Director

Ohio Environmental Protection Agency

Date

7/10/95

X. WAIVER

Luria Brothers agrees that these Orders are lawful and reasonable that Luria Brothers agrees to comply with these Orders.

Luria Brothers hereby waives the right to appeal the issuance, terms and service of these Orders and it hereby waives any and all rights it might have to seek judicial review of these Orders either in law or equity.

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By:



Date 7-12-95

Notwithstanding the preceding, the Ohio EPA and Luria Brothers agree that in the event that these Orders are appealed by any other party to the Environmental Board of Review, or any court, Luria Brothers retains the right to intervene and participate in such appeal. In such event, Luria Brothers shall continue to comply with these Orders unless said Orders are stayed, vacated, or modified.

IT IS SO AGREED:

Luria Brothers

By *Ram Vajda*

6-20-95
Date

Operations Manager
Title

Ohio Environmental Protection Agency

Don R. Schregardus
Donald R. Schregardus
Director

7-10-95
Date

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By: *Wicki Blum* Date 7-12-95